



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
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ATLANTA, GEORGIA 30303-8960

August 6, 2012

Mr. Gary D. Goeke  
Chief, Environmental Assessment Section  
Leasing and Environment (MS 5410)  
Bureau of Ocean Energy Management (BOEM)  
1201 Elmwood Park Boulevard  
New Orleans, LA 70133-2394

**Subject: EPA NEPA Review Comments on the BOEM's FEIS for "Gulf of Mexico OCS Oil and Gas Proposed Western Planning Areas Lease Sales 229, 233, 238, 246, and 248; and Proposed Central Planning Area Lease Sales 227, 231, 235, 241, and 247"; CEQ #20120217**

Dear Mr. Goeke:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject Bureau of Ocean Energy Management (BOEM) Final Environmental Impact Statement (FEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. It is our understanding that the BOEM proposes lease sales in the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) for lease blocks in both the Central Planning Area (CPA) and the Western Planning Area (WPA). Since the proposed action impacts areas in Region 4 and Region 6 both EPA regions participated in this review.

EPA provided comments on the Draft Environmental Impact Statement (DEIS) for the above referenced proposed action in a letter dated February 13, 2012. Our primary concerns outlined in our DEIS comments related to impacts to air, water quality, coastal ecosystems, and EJ populations. We appreciate the BOEM's efforts to include a dedicated section in the FEIS which includes specific responses to our comments.<sup>1</sup> We have focused our review of the FEIS on the BOEM's specific responses to our previous comments.

**EPA Comments:**

Selection of Preferred Alternative and Summary Table

Based on our review of the Summary Section of the FEIS<sup>2</sup> it doesn't appear that a preferred alternative has been clearly defined for the WPA lease sale areas. However, the

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<sup>1</sup> p. 5-38 thru 5-41 of the FEIS

<sup>2</sup> p. ix – Summary Section of FEIS

BOEM clearly defines **Alternative A** as the preferred alternative for the CPA lease sale areas in the Summary Section of the FEIS. NEPA requires that the lead agency clearly identify the preferred alternative in the FEIS.<sup>3</sup> We recommend that the BOEM provide clarification in the Summary Section of the document.

The BOEM continues to assert that providing a summary table in the FEIS “would potentially be more confusing and repetitive.”<sup>4</sup> However, we continue to support the use of an alternatives matrix table that summarizes major features and significant environmental impacts of alternatives. A matrix table could facilitate the understanding of the alternatives, particularly distinctions between alternatives, and provide a comparative evaluation of alternatives in a manner that sharply defines issues for the decision-maker and the public to make in regard to a reasoned choice among alternatives.<sup>5</sup> Writing an EIS in a clear format such that the public understands the potential significant environmental impacts associated with each alternative and the corresponding mitigation is critical to the NEPA process.<sup>6</sup>

### Air

EPA’s primary concerns with the air impact analysis provided in the DEIS was that referenced studies did not include the 1-hour NO<sub>2</sub> and SO<sub>2</sub> standards and that the referenced studies did not address compliance with the short term 1-hour NO<sub>2</sub> standard or the 1-hour SO<sub>x</sub> standard, as well as fine particulates. The BOEM acknowledges in the FEIS that “impacts on short-term standards cannot be evaluated by average emissions and average facility fuel use data.”<sup>7</sup> Furthermore, the BOEM “acknowledges that this information remains incomplete and unavailable at this time and may be relevant to reasonable foreseeable significant impacts.”<sup>8</sup> Then the BOEM indicates that they do not believe that the incomplete / unavailable data is likely to be essential for making a reasoned choice among the alternatives.<sup>9</sup> EPA remains concerned regarding how this incomplete / unavailable data could impact the decision-maker’s, reviewer’s, and public’s ability to determine if there are significant air impacts associated with this decision.

It is stated in the FEIS that “The BOEM continues to look into options for addressing this gap in information, including potential regulations, modeling, and new studies; but, regardless of the cost, these options are not available or likely to result in new information within the timeline of this EIS.”<sup>10</sup> EPA has reviewed the additional information provided by the BOEM in the FEIS and we continue to have concerns that the air analysis does not provide adequate information to support the statement that “Emissions of pollutants into the atmosphere from the routine activities associated with the proposed actions are projected to have minimal impacts to onshore air quality because of the prevailing atmospheric conditions, emission heights, emission rates, and the distance of these emissions from the coastline, and are expected to be well within the

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<sup>3</sup> 40 CFR 1502.14

<sup>4</sup> P. 5-38 – (USEPA-1)

<sup>5</sup> 40 CFR 1502.14

<sup>6</sup> 40 CFR 1502.8

<sup>7</sup> p. 5-38 of FEIS

<sup>8</sup> p. 5-38 of FEIS

<sup>9</sup> p. 5-38 of FEIS

<sup>10</sup> p. 5-38 of FEIS



National Ambient Air Quality Standards.”<sup>11</sup> Lastly, information on compliance with the NAAQS is important for the development of mitigation measures and determination of alternatives.

#### Water Quality / NPDES

EPA appreciates the inclusion of the recommended Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) language in the Final Multisale EIS.

#### Wetlands and Coastal Areas

EPA is pleased to see the inclusion of additional information regarding potential impacts to coastal areas, primary impacts associated with oil spills, and information regarding the coastal restoration programs in the FEIS.

#### Spill Response Capabilities

EPA provided comments regarding onshore response and cleanup activities, spill response activities, and deepwater spill response capabilities on the DEIS. While we remain concerned about the potential significant impacts associated with catastrophic oil spill events on Gulf of Mexico resources, we recognize that the probability of such an event is very low. We believe that the additional planning, oversight, and mitigation measures being proposed as a result of the Deepwater Horizon incident has the potential to reduce the occurrences of such events in the future.

As stated in our DEIS comments, we continue to encourage the BOEM to discuss new technologies and Best Management Practices (BMPs) to respond to deepwater spills in future NEPA documents and adopt as necessary to ensure adequate response capabilities for these types of events. We acknowledge that the Bureau of Safety and Environmental Enforcement (BSEE) has the regulatory authority for spill-response planning and that the BOEM plans to work cooperatively with BSSE to provide input regarding future oil-spill-response technology and equipment requirements.

#### GOM Hypoxia Zone

EPA appreciates the inclusion of updated information regarding the GOM hypoxia zone in the FEIS. As stated in our DEIS comments, the areal extent of the Gulf of Mexico hypoxic zone for the summer of 2011 was estimated by the Louisiana Universities Marine Consortium (LUMCON) as covering 6,765 square miles. Record spring flooding of the Mississippi River was expected to result in one of the largest recorded occurrences but an average sized zone was evident following strong winds and waves associated with Tropical Storm Don.

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<sup>11</sup> p. Summary Section of FEIS - xi

## Environmental Justice (EJ) and Subsistence Fishing

EPA appreciates the additional information provided in the FEIS regarding our EJ concerns relating to the potential for impacts from expansion of the existing infrastructure to accommodate drilling activities for these new lease areas. We also understand that the proposed actions in the EIS would most likely lead to maintaining the existing infrastructure and not significant expansion.<sup>12</sup>

We continue to support the BOEM regarding the subsistence study and efforts to better document subsistence distribution networks. We understand that the interim results of this study are un-available at this time. We are also encouraged that the BOEM has conservatively assumed that subsistence fishing and fish consumption remain potential pathways for impacts to the local population and this information has been included in the FEIS.<sup>13</sup>

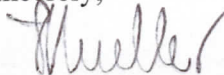
## Mitigation

As stated in the BOEM's response to our comments, an EIS is a disclosure document and based upon the impacts identified for each alternative and more specifically for the preferred alternative, mitigation and stipulations to reduce or eliminate these impacts should also be disclosed in the EIS. The BOEM uses a tiered NEPA process in which most of these specific mitigation strategies and stipulations are not selected until specific lease sales are executed, therefore specifics regarding these mitigation strategies or stipulations may not be available at this NEPA stage. EPA strongly supports all mitigation and stipulations necessary to address impacts to water quality, air quality, live bottom areas, protected species stipulations, and site-specific mitigations for environmental protection and safety.

In our DEIS comments we requested that the BOEM provide both Regions 4 and 6 an opportunity to review and comment on future tiered NEPA actions (including EAs and CATEXs) associated with the above referenced lease sales due to mitigation strategies and lease stipulations not being specifically identified at this level. Reiterating our position in the DEIS on this issue, we continue to request additional review opportunities.

EPA appreciates the opportunity to review this FEIS. We request that the BOEM provide specific responses in the Record of Decision (ROD) to our outstanding concerns listed above. We also request that the BOEM provide EPA with a copy of the final signed ROD. Should the BOEM have questions regarding our comments, please feel free to contact Dan Holliman of my staff at 404/562-9531 or [holliman.daniel@epa.gov](mailto:holliman.daniel@epa.gov).

Sincerely,



Heinz J. Mueller  
Chief, NEPA Program Office

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<sup>12</sup> p. 5-41

<sup>13</sup> p. 5-41